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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENICHIRO SAKAI and TSUGIO NODA

Appeal 2009-1094
Application 09/819,703
Technology Center 2600

Decided:¹ March 30, 2009

Before JOSEPH F. RUGGIERO, CARLA M. KRIVAK,
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-5 and 7-15. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

Appellants' claimed invention is directed to an image display device 24 for storing a plurality of images and a non-volatile storage unit 11 for temporarily storing display information of an originally displayed image. The display information includes the page number, magnification information and display position. The storing function occurs when the power switch is turned off. When the power is switched back on, the display screen is reproduced using the stored display information (Spec. 10:1-12 and Fig. 2).

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. An image display device for storing a plurality of images and displaying an image based on a user's display operation, comprising:

- a non-volatile storage unit storing data which can be rewritten and maintaining stored data even if a main power supply is switched off;
- an image storage unit storing an image;
- an image display unit displaying the image stored in the image storage unit;
- an operation detection unit detecting a user's display operation to modify a display state of the image displayed on the image display unit; and

a display information writing unit writing display information for indicating a display state, including a displayed position and magnification, of a currently displayed image in the non-volatile storage unit corresponding to one of the plurality of images based on a detection result of the operation detection unit if the display information is not already stored in the non-volatile storage unit.

THE REJECTION

The Examiner relies upon the following as evidence of unpatentability:

Nunokawa	US 6,335,729 B2	Jan. 1, 2002 (filed Feb. 27, 1998)
Ogawa	US 6,529,218 B2	Mar. 4, 2003 (filed Jul. 9, 1999)

The following rejection is before us for review:

The Examiner rejected claims 1-5 and 7-15 under 35 U.S.C. § 103(a) as being unpatentable over Nunokawa in view of Ogawa.

Appellants argue claim 1 and nominally argue claims 2-4, 7-8, and 10-15 (App. Br. 7-12). We note that although Appellants nominally argue claims 2-4 and 7-8, and 10-15 separately (App. Br. 9-11), Appellants essentially reiterate the claim limitations and do not provide any substantive analysis or explanation as to how or why these limitations are not obvious over Nunokawa in view of Ogawa. Simply pointing out what a claim requires with no attempt to point out how or why the claims patentably distinguish over the prior art does not amount to a separate argument for patentability. *See* 37 C.F.R. § 41.37 (c)(1)(vii) (2004). *See also In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987). Thus, we only address the specific

arguments presented with respect to claim 1, and we do not address Appellants' mere recitation of claim limitations which are without any corresponding argument.² Accordingly, claims 2-4, 7-8, and 10-15 stand or fall with claim 1. The arguments with respect to claim 9 are the same in scope as those presented for claim 1 (App. Br. 10). Thus, claim 9 also stands or falls with claim 1. Appellants separately argue claim 5 (App. Br. 9).

OBVIOUSNESS

ISSUE

1. Regarding the rejection of claims 1-4 and 7-15

Appellants contend that Nunokawa simply discloses saving a copy of the image that was previously displayed in data storage 18, so that the image can be quickly redisplayed when the system is turned back on (App. Br. 7). Appellants state that the claimed invention is directed to saving information regarding how the image is displayed and not saving the image itself (App. Br. 7). Appellants further contend that the Nunokawa and Ogawa combination does not teach that the magnification of a currently displayed image is stored (App. Br. 7-8).

The Examiner responds that Nunokawa teaches storing the display information (Ans. 5). The Examiner further responds that Nunokawa's deficiency of not explicitly teaching saving the displayed position and magnification is cured

² Only arguments made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Brief have not been considered and are deemed waived. See 37 C.F.R. § 41.37(c)(1)(vii) (2004).

by Ogawa's teaching that "various scales and the positional coordinates of the maps when displayed on the screen are stored" (col. 4, ll. 23-25 and Ans. 6).

The first issue before us, then, is as follows:

Have the Appellants shown that the Examiner erred by determining that the Nunokawa and Ogawa combination teaches storing image data information (i.e., claimed "display state") including displayed position and magnification data as required by claim 1?

2. Regarding the rejection of claim 5

The Examiner takes the position that Nunokawa teaches that if the operation detection unit does not detect another user's display operation during a specific time period after detecting a user's display operation, the display information writing unit writes the display information in the non-volatile storage unit (such as, in the parking lot when the car is not moving) (Ans. 5).

Appellants contend that when the vehicle is sitting in the parking lot, as stated in Nunokawa, it "merely means that the vehicle is not moving, and not that the operator is not modifying a display of a device in the vehicle" (App. Br. 9).

The second issue before us, then, is as follows:

Have the Appellants shown that the Examiner erred by determining that the operator is not modifying a display of the device in the vehicle when the vehicle is parked?

FINDINGS OF FACT

The relevant facts include the following:

1. Nunokawa teaches that "when the power . . . is turned off, the data for the

map which has been displayed immediately before the turning off is saved in the data saving memory 18 which is a non-volatile storage means” (col. 6, ll. 40-44).

2. Nunokawa teaches that “the map data which has been used to display the map screen on the display 15 . . . is saved in the data saving memory 18” (col. 7, ll. 9-13).
3. Nunokawa does not explicitly teach that the map data stored includes position and magnification information.
4. Ogawa teaches storing map data including “scales” (i.e., magnification) and “positional coordinates” (i.e., position) of the displayed maps just before the power is turned off (col. 4, ll. 20-25 and col. 5, ll. 10-13).

PRINCIPLES OF LAW

The Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). If that burden is met, then the burden shifts to the Appellants to overcome the prima facie case with argument and/or evidence. *Id.*

ANALYSIS

1. Have the Appellants shown that the Examiner erred by determining that the Nunokawa and Ogawa combination teaches storing image data information (i.e., claimed “display state”) including displayed position and magnification data as required by claim 1?

Nunokawa teaches that “when the power . . . is turned off, *the data for the map* which has been displayed immediately before the turning off is saved in the data saving memory 18 which is a non-volatile storage means” (emphasis added)

(Finding of Fact 1). Furthermore, Nunokawa teaches that “*the map data* which has been *used to display the map* screen on the display 15 . . . is saved in the data saving memory 18” (emphasis added) (Finding of Fact 2). Thus, Nunokawa teaches that when the power is turned off the non-volatile storage medium 18 stores *the map data* used to display the map on display 15, and thereby teaches storing image data information (i.e., claimed “display state”).

Nunokawa does not explicitly teach that the map data stored includes position and magnification information (Finding of Fact 3). Ogawa teaches storing map data including “scales” (i.e., magnification) and “positional coordinates” (i.e., position) of the displayed maps just before the power is turned off (Finding of Fact 4).

We find no error in the Examiner’s finding of obviousness because one skilled in the art would recognize that Nunokawa’s map data includes magnification and position information as explicitly taught by Ogawa in order to re-create the map just prior to the power being turned off.

For the foregoing reasons, Appellants have not persuaded us that the Examiner erred in rejecting representative claim 1 and claims 2-4 and 7-15 which fall with claim 1. Accordingly, we will sustain the Examiner’s rejections of these claims.

2. Have the Appellants shown that the Examiner erred by determining that the operator is not modifying a display of the device in the vehicle when the vehicle is parked?

Nunokawa teaches that the power is turned off when the automobile is not driven (i.e., parked) (col. 6, ll. 55-56). Thus, in context, Nunokawa does in fact

teach that the operator is not modifying a display of the device in the vehicle when the vehicle is parked.

Accordingly, Appellants have not persuaded us that the Examiner erred in rejecting claim 5. Therefore, we will sustain the Examiner's rejection of claim 5.

CONCLUSION

1. Under 35 U.S.C. § 103(a), the Appellants have not shown that the Examiner erred by determining that the Nunokawa and Ogawa combination teaches storing image data information (i.e., claimed "display state") including displayed position and magnification data as required by claim 1 and claims 2-4 and 7-15 which fall with claim 1.

2. Under 35 U.S.C. § 103(a), the Appellants have not shown that the Examiner erred by determining that the operator is not modifying a display of the device in the vehicle when the vehicle is parked as it applies in the reasonable interpretation of claim 5.

ORDER

The decision of the Examiner to reject claims 1-5 and 7-15 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

Appeal 2009-1094
Application 09/819,703

tdl

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